

# EXHIBIT J

Sacramento, CA

Page 394

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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IN RE PHARMACEUTICAL INDUSTRY)

AVERAGE WHOLESALE PRICE )

LITIGATION )

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THIS DOCUMENT RELATES TO ) MDL No. 1456

State of California, ex rel. ) Civil Action:

Ven-A-Care v. Abbott ) 01-12258-PBS

Laboratories, Inc., et al. )

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VOL. II

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MONDAY, SEPTEMBER 22, 2008

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VIDEOTAPED DEPOSITION OF

J. KEVIN GOROSPE, Pharm.D.

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Reported By: CAROL NYGARD DROBNY, CSR No. 4018

Registered Merit Reporter

## Sacramento, CA

<p style="text-align: right;">Page 691</p> <p>1 A. Yes.</p> <p>2 Q. Okay. So for a time it was AWP minus 5,</p> <p>3 or FAC, or MAIC, and then the program would pay the</p> <p>4 lower of each of those -- of those components;</p> <p>5 correct?</p> <p>6 A. After comparing it to the usual and</p> <p>7 customary.</p> <p>8 Q. Okay. So if the usual and customary was</p> <p>9 10 and the others were less than 10, one of those</p> <p>10 other ones would be picked as the basis for the</p> <p>11 reimbursement; right?</p> <p>12 A. That is correct.</p> <p>13 Q. Okay. So now, is it fair to say based</p> <p>14 on that that whenever some basis of payment was</p> <p>15 selected other than the usual and customary charge</p> <p>16 the Medi-Cal program obtained the prescription at a</p> <p>17 discount?</p> <p>18 MR. PAUL: Objection to form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. ROBBEN:</p> <p>21 Q. Okay. Does it -- it obtained the</p> <p>22 product for less than that pharmacy would have sold</p>	<p style="text-align: right;">Page 693</p> <p>1 BY MR. PAUL:</p> <p>2 Q. For the record I'm Nicholas Paul with</p> <p>3 the California Department of Justice representing</p> <p>4 the Medi-Cal program here in California in this</p> <p>5 case and representing Mr. Gorospe in this</p> <p>6 deposition.</p> <p>7 Mr. Gorospe, counsel for Mylan and Dey,</p> <p>8 Mr. Robben, asked you some questions at the</p> <p>9 beginning of his time with you regarding a meeting</p> <p>10 -- a discussion that you had with Mylan, his</p> <p>11 client, in May 2007, I believe.</p> <p>12 Do you recall the testimony?</p> <p>13 A. Yes.</p> <p>14 Q. And you provided responses to his</p> <p>15 questions?</p> <p>16 A. Yes.</p> <p>17 Q. And if I recollect correctly, the</p> <p>18 discussion with the Mylan representative included</p> <p>19 discussion of AMPs; is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the Mylan representative described</p> <p>22 AMPs to you as a poor basis for reimbursement</p>
<p style="text-align: right;">Page 692</p> <p>1 it to the general public; correct?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So even if the basis of payment</p> <p>4 was AWP, AWP minus 5 percent, let's say, if that</p> <p>5 was less than usual and customary charge the</p> <p>6 Medi-Cal program obtained that drug for less than</p> <p>7 the pharmacy would have charged somebody else for</p> <p>8 that product; correct?</p> <p>9 MR. PAUL: Objection to form.</p> <p>10 THE WITNESS: Yes.</p> <p>11 MR. ROBBEN: I have nothing else.</p> <p>12 MR. PAUL: You guys done with him for the</p> <p>13 day?</p> <p>14 MR. BUEKER: (Nodding head)</p> <p>15 MR. PAUL: I had a couple of questions.</p> <p>16 MR. ROBBEN: Why don't you go ahead.</p> <p>17 MR. PAUL: Sure.</p> <p>18 Mr. Gorospe --</p> <p>19 MR. ROBBEN: You want to trade places?</p> <p>20 MR. BENNETT: Yeah, why don't we.</p> <p>21 MR. BUEKER: I'll move out.</p> <p>22 EXAMINATION</p>	<p style="text-align: right;">Page 694</p> <p>1 because they were unreliable; is that correct?</p> <p>2 MR. ROBBEN: Objection.</p> <p>3 BY MR. PAUL:</p> <p>4 Q. Is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Do you recall -- did the Mylan</p> <p>7 representative explain to you why he or she</p> <p>8 believed that Mylan's AMP were unreliable?</p> <p>9 A. Yes, but I don't recall the content.</p> <p>10 Q. So you don't remember the reason for</p> <p>11 their unreliability?</p> <p>12 A. Just -- I don't recall the specifics of</p> <p>13 the conversation.</p> <p>14 Q. And I believe the representative also</p> <p>15 expressed concern about using AMPs for</p> <p>16 reimbursement because of the confidentiality of</p> <p>17 AMP; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Do you recall what the representative</p> <p>20 stated to you regarding the confidentiality of</p> <p>21 Mylan AMPs, any details?</p> <p>22 A. No, I don't recall the details.</p>

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<p style="text-align: right;">Page 703</p> <p>1 called "10 percent supplemental rebate"?</p> <p>2 A. Yes.</p> <p>3 Q. Do you have an understanding of when --</p> <p>4 Under --</p> <p>5 Well, what is -- what is "supplemental</p> <p>6 rebate"?</p> <p>7 A. A "supplemental rebate" is a rebate</p> <p>8 that's paid to -- to Medi-Cal that's in addition to</p> <p>9 the federally mandated rebate.</p> <p>10 Q. And under what circumstances does</p> <p>11 California receive a supplemental rebate?</p> <p>12 A. Generally it's due to a contract</p> <p>13 negotiated between the Medi-Cal program and the</p> <p>14 individual manufacturer for individual products.</p> <p>15 In the context of these documents there</p> <p>16 was a statutorily mandated 10 percent supplemental</p> <p>17 rebate that ran from -- it would have been third</p> <p>18 quarter 2004 through the end of fourth quarter</p> <p>19 2006.</p> <p>20 Q. You said 2004 through 2006?</p> <p>21 A. I mean -- I mean 1994 through 1996.</p> <p>22 I'm sorry. I'm a little punch drunk</p>	<p style="text-align: right;">Page 705</p> <p>1 A. No, July 1994.</p> <p>2 Q. July 19 --</p> <p>3 Through?</p> <p>4 A. December 31st, 2000 -- I mean 1996.</p> <p>5 Q. So approximately an 18-month --</p> <p>6 A. That's correct.</p> <p>7 Q. -- period?</p> <p>8 Did the legislation that imposed that</p> <p>9 requirement sunset after December of 1996?</p> <p>10 In other words, did it -- the requirement</p> <p>11 went away legislatively -- or statutorily?</p> <p>12 MS. BERWANGER: Objection to form.</p> <p>13 THE WITNESS: Excuse me.</p> <p>14 There was original legislation that</p> <p>15 sunsetted in June 30th, 1996. The Legislature</p> <p>16 extended that sunset to December 31st, 1996, after</p> <p>17 which the mandatory 10 percent went away.</p> <p>18 BY MR. PAUL:</p> <p>19 Q. And after December 1996 and the</p> <p>20 statutory requirement that we've been discussing</p> <p>21 ended did California continue to enter in to</p> <p>22 supplemental rebate contracts with any</p>
<p style="text-align: right;">Page 704</p> <p>1 right now.</p> <p>2 Q. All right. So you've stated that there</p> <p>3 was a statute -- a statutorily mandated</p> <p>4 supplemental rebate program.</p> <p>5 Did that apply to all manufacturers whose</p> <p>6 drugs were reimbursed by California's Medi-Cal</p> <p>7 program?</p> <p>8 MS. BERWANGER: Objection to form.</p> <p>9 THE WITNESS: Yes.</p> <p>10 The statute required that the</p> <p>11 manufacturer pay the 10 percent supplemental rebate</p> <p>12 or all of its products were subject to prior</p> <p>13 authorization, however, the statute did allow the</p> <p>14 Director to exempt specific products for health</p> <p>15 medical needs.</p> <p>16 BY MR. PAUL:</p> <p>17 Q. Were there many such exemptions?</p> <p>18 A. I can recall only one.</p> <p>19 Q. So is it your testimony that between</p> <p>20 January 1994 and December 1996 all drug</p> <p>21 manufacturers were required to enter in to</p> <p>22 supplemental rebate agreements with California?</p>	<p style="text-align: right;">Page 706</p> <p>1 manufacturers?</p> <p>2 MS. BERWANGER: Objection to form.</p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. PAUL:</p> <p>5 Q. All manufacturers?</p> <p>6 A. No.</p> <p>7 Q. Which manufacturers -- if you know?</p> <p>8 A. I can't specifically name all the</p> <p>9 individual manufacturers, largely the manufacturers</p> <p>10 of single source drugs though.</p> <p>11 Q. So California -- so since December 1996</p> <p>12 California's supplemental rebates have only been</p> <p>13 entered in to for branded drugs?</p> <p>14 A. No. There were two or three contracts</p> <p>15 with companies for generic products.</p> <p>16 Q. For specific MDCs or --</p> <p>17 A. For a specific drug product.</p> <p>18 Q. And how many multi-source -- just to</p> <p>19 confirm, would you tell us how many supplemental</p> <p>20 rebate contracts since January 1997 have been</p> <p>21 entered in to for generic drugs?</p> <p>22 A. I believe four.</p>

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